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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 462 OF 2021
WITH
INTERIM APPLICATION NO. 4127 OF 2021
IN
SECOND APPEAL NO. 462 OF 2021**

Smt. Ashalata Arvind Deshpande ... Appellant

vs.

Prakash Krishnayya Paraswar ... Respondent

Mr. Anirudha Valsangkar i/b. Samir A. Kumbhakoni, for Appellant
through VC.

CORAM : GAURI GODSE, J.

DATED : 13th JUNE 2024

ORDER :-

1. This Second Appeal is filed by the original plaintiff seeking dismissal of the suit for an injunction based on the title. Both the courts have recorded concurrent findings of facts that the plaintiff has failed to prove the ownership over the suit property. Hence, the plaintiff/appellant is held not entitled to any relief.

2. Learned counsel for the appellant submits that both the courts have committed error in not properly appreciating the evidence on

record. He relies upon the Court Commissioner's report in support of the submissions that the appellant is the owner of the suit property. The Court Commissioner's report cannot be the document of title for the grant of relief as prayed by the appellant. It is not the appellant's case that any document of title was produced to support her pleading that she is the owner of the suit property. The question of law sought to be raised on behalf of the appellant regarding the misconstruction of the document is admittedly not a document of title. The grounds argued on behalf of the appellants would require re-appreciation and re-examination of facts and evidence on record which is not permissible under Section 100 of the Civil Procedure Code, 1908.

3. In view of the concurrent findings recorded with regard to the appellant's failure to prove title of the suit property, I do not see any reason to interfere in the concurrent findings.

4. Second Appeal does not raise any substantial question of law. Second Appeal is therefore dismissed.

5. In view of dismissal of the Second Appeal, Interim Application No. 4127 of 2021 is dismissed as infructuous.

(GAURI GODSE, J.)